

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

JIM MATHEWS §
v. § CIVIL ACTION NO. 5:12cv82
BOWIE COUNTY, TEXAS, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING PARTIAL FINAL JUDGMENT

The Plaintiff Jim Mathews filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On September 13, 2013, the Court dismissed Mathews' claims against the Defendants Sheriff Prince, Bowie County, Civigenics, Inc., and Community Education Centers, Inc. Mathews' claims against other, unnamed defendants were not dismissed but remain active in the case.

On September 26, 2013, Mathews filed a motion styled as a "motion to sever parties." In this motion, Mathews makes clear that he wishes to pursue an appeal of the dismissal of the named defendants.

On October 10, 2013, the Magistrate Judge issued a Report recommending that Mathews' motion to sever parties be construed as a motion for entry of a partial final judgment under Rule 54(b), Fed. R. Civ. P., and that such motion be granted. On October 14, Mathews filed a formal motion for entry of a partial final judgment. Neither party has objected to the Report of the Magistrate Judge; accordingly, the parties are barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjection-to factual findings and legal conclusions accepted and adopted

by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. [48](#)) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for entry of a partial final judgment (docket no. 50) and motion to sever parties, construed as a motion for entry of a partial final judgment (docket no. 45) are hereby GRANTED. It is the intent of the district court to enter a partial final judgment under Rule 54(b) and that such partial final judgment be immediately appealable. *See Kelly v. Lee's Old Fashioned Hamburgers, Inc.*, 908 F.2d 1218, 1220 (5th Cir. 1990). It is further

ORDERED that the dismissal of the Plaintiff's claims against the Defendants Sheriff Prince, Bowie County, Civigenics, Inc., and Community Education Centers, Inc. is hereby CERTIFIED as a partial final judgment under Rule 54(b), Fed. R. Civ. P. *See Bridgmon v. Array Systems Corp.*, 325 F.3d 572, 574 n.2 (5th Cir. 2003). The entry of this partial final judgment shall not affect the Plaintiff's claims against the remaining Defendants in the case.

It is SO ORDERED.

SIGNED this 5th day of November, 2013.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE